

The opinion in support of the decision being entered today was **not** written for publication and is **not** binding precedent of the Board.

Paper No. 16

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte AKIHIRO MIYACHI,
MASASHI SETO,
KAZUHIRO SHIMADA,
and
HIDEO TAMURA

Appeal No. 2003-1205
Application No. 09/568,406

ON BRIEF

Before PAK, OWENS, and WALTZ, ***Administrative Patent Judges.***

PAK, ***Administrative Patent Judge.***

DECISION ON APPEAL

This is a decision on an appeal under 35 U.S.C. § 134 from the examiner's final rejection of claims 1 through 4, 7 and 8, which are all of the claims under rejection in the present application. The examiner has withdrawn the rejection of claims 5, 6 and 9 through 13, subsequent to the final Office action dated June 14, 2002. See the Answer, page 3.

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APPEALED SUBJECT MATTER

The appellants have not challenged the examiner's position that "claims 1-4,7-8 [sic, 1-4, 7 and 8] stand or fall together because the appellant's [sic, appellants'] brief does not include a statement that this grouping of claims does not stand or fall together" See the Brief and the Reply Brief in their entirety. Therefore, for purposes of this appeal, we select claim 1 from all of the claims on appeal and determine the propriety of the examiner's rejection based on this claim alone consistent with 37 CFR § 1.192(c)(7) and (c)(8) (2002). **See also *In re McDaniel***, 293 F.3d 1379, 1383, 63 USPQ2d 1462, 1465 (Fed. Cir. 2002) ("If the brief fails to meet either requirement [of 37 CFR § 1.192(c)(7)], the Board is free to select a single claim from each group of claims subject to a common ground of rejection as representative of all claims in that group and to decide the appeal of that rejection based solely on the selected representative claim"). Claim 1 is reproduced below:

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1. A fiber optic connector for mating with a complementary connecting device along a mating optical axis, comprising:

an outer housing having a forward mating end, a rear end and a resilient latch portion for latching engagement with the complementary connecting device, the outer housing including wall means at said rear end substantially surrounding said axis to define a cavity opening rearwardly of the housing;

an inner housing fitted into the rearwardly opening cavity in the outer housing whereby said wall means constrains the inner housing in "X" and "Y" directions generally perpendicular to said axis, the inner housing including an optical element receiving cavity communicating with the optical axis; and

complementary interengaging retaining means between the inner and outer housings to hold the inner housing in the rearwardly opening cavity of the outer housing against movement in a "Z" direction generally parallel to said axis.

PRIOR ART

The examiner relies on the following sole prior art reference:

Komatsu	4,778,240	Oct. 18, 1988
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THE REJECTION

Claims 1 through 4, 7 and 8 stand rejected under 35 U.S.C. § 102(b) as anticipated by the disclosure of Komatsu.

OPINION

We have carefully reviewed the claims, specification and applied prior art, including all of the arguments advanced by

both the examiner and the appellants in support of their respective positions. This review leads us to conclude that the examiner's Section 102 rejection is well founded. Accordingly, we affirm the Section 102 rejection for essentially those reasons set forth in the Answer. We add the following primarily for emphasis and completeness.

To establish "anticipation" under Section 102, a single prior art reference must disclose, either expressly or under the principles of inherency, each and every element of a claimed invention. **See *In re Spada***, 911 F.2d 705, 708, 15 USPQ2d 1655, 1657 (Fed. Cir. 1990); ***RCA Corp. v. Applied Digital Data Sys., Inc.***, 730 F.2d 1440, 1444, 221 USPQ 385, 388 (Fed. Cir.), **cert. dismissed**, 468 U.S. 1228 (1984). The law of anticipation only requires that the claims on appeal "read on" something disclosed in the prior art reference. **See *Kalman v. Kimberly-Clark Corp.***, 713 F.2d 760, 772, 218 USPQ 781, 789 (Fed. Cir. 1983).

We find that Komatsu teaches a fiber optic connector for mating with a complementary device, such as a ferrule 44, along a mating optical axis. See column 1, lines 30-45 and column 3, lines 1-9, together with Figures 2A, 2B, and 3. We find that Komatsu teaches that its optical connector has a body 11 and an

optical element holder 21 corresponding to the claimed outer housing and inner housing, respectively. See column 2, lines 43-52, together with Figures 2A, 2B, and 3. We find that Komatsu shows that the body 11 is formed by walls surrounding the mating optical axis to define cavity openings in the front cylindrical portion 12 (the claimed forward mating end) and the rear box-shaped portion 13 (the claimed rear end). See column 2, lines 7-14 column 3, lines 1-11, together with Figures 2A, 2B, and 3. We find that Kotmatsu teaches employing two tongues 17a of the movable contact piece 16 corresponding to the claimed resilient latch portion in the body 11 to resiliently click into engagement with the annular groove of the ferrule 44 (the claimed complementary device). See column 3, lines 62-68, together with Figures 2B and 3. We find that Kotmatsu teaches that its optical element holder 21 having an optical receiving cavity communicating with the optical axis is fitted into the box-shape portion of the body 11 from behind. See column 2, lines 43-55 and column 3, lines 1-11, together with Figures 2A, 2B and 3. We find that Kotmatsu teaches that the optical element holder 21 is positioned and retained within the body 11 via protrusions 28 on the holder and recesses 18a and 18b in the movable contact piece 16 within the body and/or protrusions 31a and 31b in the body and

recesses 29a and 29b in the holder 21 (corresponding to the claimed complementary interengaging retaining means). See column 3, lines 10-23, together with Figures 2B and 3.

The appellants only argue that the tongues and recesses disclosed in Komatsu are not part of a unitary structure of the body 11 (outer housing).¹ See the Brief and the Reply Brief in

¹ The appellants have not argued that the claimed complementary interengaging retaining means should be treated as a means-plus-function element within the meaning of 35 U.S.C. 112, paragraph 6. Thus, we are not required to raise and/or consider such issue. ***In re Baxter Travenol Labs.***, 952 F.2d 388, 391, 21 USPQ2d 1281, 1285 (Fed. Cir. 1991) ("It is not the function of this court to examine the claims in greater detail than argued by an appellant . . ."); 37 CFR § 1.192(a) (2000) ("Any arguments or authorities not included in the brief will be refused consideration by the Board of Patent Appeals and Interferences, unless good cause is shown"). However, even if we were to treat it as a means-plus-function element, our decision would not be altered. As is apparent from page 8 of the specification and Figures 17 and 18 of the application, the claimed complementary interengaging retaining means corresponds to the recesses and protrusions located at the outer and inner housings, respectively. These recesses and protrusions perform substantially the same function (retaining function) in the same or similar manner to retain the inner housing within the outer housing as those recesses and protrusions in Komatsu's body and holder. As such, we find that Komatsu either describes a structure corresponding to or equivalent to the claimed complementary interengaging retaining means. ***See Odetics Inc. v. Storage Tech. Corp.***, 185 F.3d 1259, 1267, 51 USPQ2d 1225, 1229-30 (Fed. Cir. 1999) (a prior art element is considered equivalent to the claimed element if the prior art element performs the function specified in the claim in substantially the same way to produce substantially the same results as the element corresponding to the claimed means described in the specification). One of ordinary skill in the

their entirety. We are not persuaded by this argument.

In prosecution of a patent application, we give words in the claims their broadest reasonable meaning in their ordinary usage, taking into account the written description found in the specification. **See *In re Morris***, 127 F.3d 1048, 1054, 44 USPQ2d 1023, 1027 (Fed. Cir. 1997); ***In re Zletz***, 893 F.2d 319, 321-22, 13 USPQ2d 1320, 1322 (Fed. Cir. 1989). We determine that the claims on appeal, as reasonably and broadly interpreted, do not require that their resilient latch portion and complementary interengaging retaining means be part of a unitary structure of the claimed outer housing and/or inner housing. As such, we concur with the examiner that Kotmatsu fully describes the claimed optical connector within the meaning of 35 U.S.C. § 102(b).

art would have recognized those claimed and prior art protrusions and recesses are at least interchangeable for the purpose of retaining the inner housing within the outer housing. ***Al-Site Corp. v. VSI Int'l, Inc.***, 174 F.3d 1308, 1316, 50 USPQ2d 1161, 1165 (Fed. Cir. 1999) (a prior art element is deemed an equivalent to the claimed element if one of ordinary skill in the art would have recognized the interchangeability of the elements involved).

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No time period for taking any subsequent action in
connection with this appeal may be extended under 37 CFR
§ 1.136(a).

AFFIRMED

CHUNG K. PAK)	
Administrative Patent Judge)	
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)	BOARD OF PATENT
TERRY J. OWENS)	APPEALS AND
Administrative Patent Judge)	INTERFERENCES
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)	
THOMAS A. WALTZ)	
Administrative Patent Judge)	

CKP:hh

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